

# **IP and its Successful Commercialisation**

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## Presentation

- **What do we mean by IP?**
- **Why is IP important?**
- **Who owns IP?**
- **How to protect IP?**
- **How to commercialise IP?**

# What do we mean by Intellectual Property?

- Legal rights that protect your ideas and inventions (IPRs) – e.g., patents, copyright, design rights and trade marks
- Human capital (intangible asset) – e.g., confidential information, know how, reputation and publications

# Why is IP important?

- Critical to the development and commercialisation of new ideas
- Output of research (Research Excellence Framework (REF))
- Often allows you to stay ahead of your competition
- Financial benefits to the inventor and/ or research institution

# Who owns the IP?

- Student or HEI? – IP Policy, Post-grad or Undergraduate
- Commissioner of the research? – Business, Research Council, European Commission....
- Consortium? – IP Agreement
- Evidence of ownership – Lab books, reports

## How do you protect IP?

- Copyright
- Patents
- Trade mark
- Design Rights
- Confidentiality

# What is Copyright?

- An unregistered right (unlike patents, design rights, etc)
- No need to register, so no official action to be taken
- Automatic right
- Good idea to use © symbol followed by name and date

# Copyright exists in many forms

- Literary works, e.g. reports, thesis, computer programs
- Dramatic works, including dance and mine
- Musical and artistic works, e.g. paintings, photographs, maps, logos
- Sound recordings on any medium (tape / CD)
- Films, including videos and broadcasts

**Ideas or concepts are not protected!!**

# Who owns Copyright?

- Generally the **author is the first owner** (literary, dramatic, musical or artistic work)
- Main exception is where work is made during course of employment, in which case the owner is the employer
- E.g., Films – joint owners are the principal director and film producer
- Sound recordings, broadcasts and published editions – record producer, broadcaster or publisher
- Work undertaken by a third party on behalf, then owner is the third party unless assigned in writing

# How long does Copyright exist?

## In the UK copyright exists for:

- Literary, dramatic, musical or artistic 70yrs / after death
- Sound recordings 50 yrs / after release
- Films 70 yrs / after death

# Copyright in summary

<b>Overview</b>	Automatic	Usually 70 years	Protects the written word
<b>Requirements</b>	No “mere” copy	Intellectual input	
<b>Problems</b>	Infringement = “copying”	Ownership	Not protect idea

# What is a Patent?

- **A patent for an invention is granted by government to the inventor**, giving the inventor the right for a limited period (normally 20 years) to stop others from making, using or selling the invention without the permission of the inventor
- Patents are generally intended to cover **products or processes** that possess or contain new functional or technical aspects; patents are therefore concerned with, for example, how things work, what they do, how they do it, what they are made of or how they are made
- The vast majority of patents are **for incremental improvements** in known technology; it has been said that innovation is evolution rather than revolution.

# What is Patentable?

- **Be new:** The invention must never have been made public in any way, anywhere in the world, before the date on which an application for a patent is filed.
- **Involve an inventive step:** An invention involves an inventive step if, when compared with what is already known, it would not be obvious to someone with a good knowledge and experience of the subject.
- **Be capable of industrial application:** An invention must be capable of being made or used in some kind of industry. This means that the invention must take the practical form of an apparatus or device, a product such as some new material or substance or an industrial process or method of operation.

# Patents in summary

<b>Overview</b>	Monopoly right	Usually lasts for 20 years	Expensive
<b>Requirements</b>	Novelty	Inventive step	Industrial Application
<b>Problems</b>	Prior disclosure	Ownership	Territorial

## What is a Trade Mark?

**A trade mark is a sign** which can distinguish your goods and services from those of other traders. A sign includes, for example, words, logos, pictures or a combination of these

You can use your trade mark as a marketing tool so that customers can recognise your products or services.

## What do the Symbols <sup>TM</sup> and <sup>®</sup> mean?

A <sup>TM</sup> represents an unregistered trade mark. It is informal notification by the person affixing the sign that he/she claims trade mark rights

The <sup>®</sup> symbol shows the public that the mark is registered. NB: Use of the <sup>®</sup> symbol with any unregistered trade mark is illegal

# Trademark in summary

<b>Overview</b>	Monopoly right in territory / class	10 yrs renewable	Prevents re-use or extraction
<b>Requirements</b>	None descriptive	Need to use	
<b>Problems</b>	Class driven	Enforcement	Territorial

# What is a Design Right?

**A registered design** is a monopoly right for protecting the appearance of the whole or a part of a product

Under the current law it is the design itself which is protected, not the article bearing the design (pre-2002 law a separate registration would have to be made for each article bearing the design)

# What must Designs have?

**Must be new** which means that it must not be the same as any design which has already been made available to the public, AND

**Have individual character**, the test of which is through the eyes of an “informed user” rather than a design expert; so for example does the design induce a reaction of “deja-vu”?

# Registered Designs in summary

<b>Overview</b>	Monopoly right in territory	25 yrs	
<b>Requirements</b>	Not protecting functionality	“novelty”	
<b>Problems</b>	Cost	Prior Disclosure	Territorial

## Confidentiality

- Confidential information is information which **MUST** not be divulged without permission
- Covers a wide range of material and often have great value for example, a trade secret, such as the Coca Cola recipe
- Inventions - not to disqualify a patent application, no details must be divulged before filing. Therefore need to use a Non-Disclosure Agreement to protect interests

# Confidentiality in summary

<b>Overview</b>	Implied? Express?	No set duration unless NDA	Prevents disclosure
<b>Requirements</b>	Is it confidential?	Employment contracts	
<b>Problems</b>	Evidence	Implied Terms	

# How do you commercialise IP?

- Permission to use
- What is the IP? - define
- Sell - IP Assign
- Exploit direct - Spin-out company, Joint Venture
- Licence – exclusive, non-exclusive
- Not use

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**Thank you**

**Questions?**